

**IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,	)	
	)	
v.	)	
	)	Criminal No. 23-00061-MN
ROBERT HUNTER BIDEN,	)	
	)	
<i>Defendant.</i>	)	

**NOTICE OF SUPPLEMENTAL AUTHORITY**

The government respectfully submits this notice to alert the Court to supplemental authority that bears on the defendant’s pending Rule 29 motion for acquittal under the Second Amendment as applied and the Fifth Amendment. ECF 220. The defendant’s motion relies extensively on the Fifth Circuit’s opinion in *United States v. Daniels*, 77 F.4th 337 (5th Cir. 2023), which held that § 922(g)(3) was unconstitutional under the Second Amendment as applied to a recreational marijuana user. *See id.* at 3-8. On July 2, 2024, the Supreme Court vacated *Daniels* and remanded it to the Fifth Circuit for further consideration in light of its decision in *United States v. Rahimi*, No. 22-915, 2024 WL 3074728 (U.S. June 21, 2024). U.S. Supreme Court Order List 603, [https://www.supremecourt.gov/orders/courtorders/070224zor\\_2co3.pdf](https://www.supremecourt.gov/orders/courtorders/070224zor_2co3.pdf) (last visited July 2, 2024). The Supreme Court also vacated and remanded *Range v. Att’y Gen. United States of Am.*, 69 F.4th 96 (3d Cir. 2023), which held § 922(g)(1) unconstitutional as applied. *Id.*

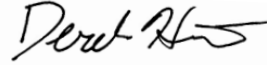
*Rahimi* clarified that a firearms regulation must only “comport with the principles underlying the Second Amendment”—it need not be “identical” to founding-era regimes. *Rahimi*, 2024 WL 3074728, at \*6, \*9. The Supreme Court’s orders confirm that the Fifth and Third Circuits incorrectly applied this standard and provide additional support for the conclusion that § 922(g)(3) is constitutional as applied to the defendant in this case.

Respectfully submitted,

DAVID C. WEISS  
SPECIAL COUNSEL

July 2, 2024

By:



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Derek E. Hines  
Senior Assistant Special Counsel

Leo J. Wise  
Principal Senior Assistant Special Counsel

U.S. Department of Justice